

AMENDED IN SENATE APRIL 6, 2015

**SENATE BILL**

**No. 512**

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**Introduced by Senator Hill**

February 26, 2015

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An act to amend Section ~~451 of the Public Utilities Code, relating to public utilities.~~ *13300 of the Penal Code, relating to criminal history information.*

LEGISLATIVE COUNSEL'S DIGEST

SB 512, as amended, Hill. ~~Public utilities: rates.~~ *Criminal History Information: Health Services Personnel.*

*Existing law requires a local criminal justice agency to record and store specified arrest and identification data, also known as local summary criminal history information, regarding persons arrested by the agency. Existing law requires each local agency to furnish local summary criminal history information to specified entities, including, but not limited to, the courts of the state, peace officers, district attorneys, probation officers, and parole officers, when the information is needed in the course of their duties.*

*This bill would require local criminal justice agencies to additionally furnish summary criminal history information to city, county, and city and county health services personnel who are engaged in efforts to identify and treat individuals who have alcohol abuse, substance abuse, or mental health issues, for the purpose of providing assessment, treatment, rehabilitation, or other health care to those individuals. By imposing new duties upon a local criminal justice agency with respect to furnishing local summary criminal history information, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law authorizes the Public Utilities Commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires a public utility to furnish and maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.~~

~~This bill would make nonsubstantive revisions in these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 13300 of the Penal Code is amended to  
2     read:

3     13300. (a) As used in this section:

4     (1) “Local summary criminal history information” means the  
5     master record of information compiled by ~~any~~ a local criminal  
6     justice agency pursuant to Chapter 2 (commencing with Section  
7     13100) of Title 3 of Part 4 pertaining to the identification and  
8     criminal history of any person, such as name, date of birth, physical  
9     description, dates of arrests, arresting agencies and booking  
10    numbers, charges, dispositions, and similar data about the person.

11    (2) “Local summary criminal history information” does not  
12    refer to records and data compiled by criminal justice agencies  
13    other than that local agency, nor does it refer to records of  
14    complaints to or investigations conducted by, or records of  
15    intelligence information or security procedures of, the local agency.

16    (3) “Local agency” means a local criminal justice agency.

17    (b) A local agency shall furnish local summary criminal history  
18    information to any of the following, when needed in the course of  
19    their duties, provided that when information is furnished to assist

1 an agency, officer, or official of state or local government, a public  
2 utility, or any entity, in fulfilling employment, certification, or  
3 licensing duties, Chapter 1321 of the Statutes of 1974 and Section  
4 432.7 of the Labor Code shall apply:

5 (1) The courts of the state.

6 (2) Peace officers of the state, as defined in Section 830.1,  
7 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),  
8 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of  
9 Section 830.5.

10 (3) District attorneys of the state.

11 (4) Prosecuting city attorneys of ~~any~~ a city within the state.

12 (5) City attorneys pursuing civil gang injunctions pursuant to  
13 Section 186.22a, or drug abatement actions pursuant to Section  
14 3479 or 3480 of the Civil Code, or Section 11571 of the Health  
15 and Safety Code.

16 (6) Probation officers of the state.

17 (7) Parole officers of the state.

18 (8) A public defender or attorney of record when representing  
19 a person in proceedings upon a petition for a certificate of  
20 rehabilitation and pardon pursuant to Section 4852.08.

21 (9) A public defender or attorney of record when representing  
22 a person in a criminal case, or a parole, mandatory supervision, or  
23 postrelease community supervision revocation or revocation  
24 extension hearing, and when authorized access by statutory or  
25 decisional law.

26 (10) ~~Any~~ An agency, officer, or official of the state when the  
27 local summary criminal history information is required to  
28 implement a statute, regulation, or ordinance that expressly refers  
29 to specific criminal conduct applicable to the subject person of the  
30 local summary criminal history information, and contains  
31 requirements or exclusions, or both, expressly based upon the  
32 specified criminal conduct.

33 (11) ~~Any~~ A city, county, city and county, or district, or ~~any~~ an  
34 officer or official thereof, when access is needed in order to assist  
35 the agency, officer, or official in fulfilling employment,  
36 certification, or licensing duties, and when the access is specifically  
37 authorized by the city council, board of supervisors, or governing  
38 board of the city, county, or district when the local summary  
39 criminal history information is required to implement a statute,  
40 regulation, or ordinance that expressly refers to specific criminal

1 conduct applicable to the subject person of the local summary  
2 criminal history information, and contains requirements or  
3 exclusions, or both, expressly based upon the specified criminal  
4 conduct.

5 (12) The subject of the local summary criminal history  
6 information.

7 (13) ~~Any~~A person or entity when access is expressly authorized  
8 by statute when the local summary criminal history information  
9 is required to implement a statute, regulation, or ordinance that  
10 expressly refers to specific criminal conduct applicable to the  
11 subject person of the local summary criminal history information,  
12 and contains requirements or exclusions, or both, expressly based  
13 upon the specified criminal conduct.

14 (14) ~~Any~~A managing or supervising correctional officer of a  
15 county jail or other county correctional facility.

16 (15) Local child support agencies established by Section 17304  
17 of the Family Code. When a local child support agency closes a  
18 support enforcement case containing summary criminal history  
19 information, the agency shall delete or purge from the file and  
20 destroy any documents or information concerning or arising from  
21 offenses for or of which the parent has been arrested, charged, or  
22 convicted, other than for offenses related to the parents having  
23 failed to provide support for the minor children, consistent with  
24 Section 17531 of the Family Code.

25 (16) County child welfare agency personnel who have been  
26 delegated the authority of county probation officers to access state  
27 summary criminal information pursuant to Section 272 of the  
28 Welfare and Institutions Code for the purposes specified in Section  
29 16504.5 of the Welfare and Institutions Code.

30 (17) A humane officer appointed pursuant to Section 14502 of  
31 the Corporations Code, for the purposes of performing his or her  
32 duties. A local agency may charge a reasonable fee sufficient to  
33 cover the costs of providing information pursuant to this paragraph.

34 (18) *City, county, or city and county health services personnel*  
35 *who are engaged in efforts to identify and treat individuals who*  
36 *have alcohol abuse, substance abuse, or mental health issues, for*  
37 *the purpose of providing assessment, treatment, rehabilitation, or*  
38 *other health care to those individuals.*

39 (c) The local agency may furnish local summary criminal history  
40 information, upon a showing of a compelling need, to any of the

1 following, provided that when information is furnished to assist  
2 an agency, officer, or official of state or local government, a public  
3 utility, or any entity, in fulfilling employment, certification, or  
4 licensing duties, Chapter 1321 of the Statutes of 1974 and Section  
5 432.7 of the Labor Code shall apply:

6 (1) ~~Any~~A public utility, as defined in Section 216 of the Public  
7 Utilities Code, which operates a nuclear energy facility when access  
8 is needed to assist in employing persons to work at the facility,  
9 provided that, if the local agency supplies the information, it shall  
10 furnish a copy of this information to the person to whom the  
11 information relates.

12 (2) To a peace officer of the state other than those included in  
13 subdivision (b).

14 (3) An animal control officer, authorized to exercise powers  
15 specified in Section 830.9, for the purposes of performing his or  
16 her official duties. A local agency may charge a reasonable fee  
17 sufficient to cover the costs of providing information pursuant to  
18 this paragraph.

19 (4) To a peace officer of another country.

20 (5) To public officers, other than peace officers, of the United  
21 States, other states, or possessions or territories of the United  
22 States, provided that access to records similar to local summary  
23 criminal history information is expressly authorized by a statute  
24 of the United States, other states, or possessions or territories of  
25 the United States when this information is needed for the  
26 performance of their official duties.

27 (6) To ~~any~~a person when disclosure is requested by a probation,  
28 parole, or peace officer with the consent of the subject of the local  
29 summary criminal history information and for purposes of  
30 furthering the rehabilitation of the subject.

31 (7) The courts of the United States, other states, or territories  
32 or possessions of the United States.

33 (8) Peace officers of the United States, other states, or territories  
34 or possessions of the United States.

35 (9) To ~~any~~an individual who is the subject of the record  
36 requested when needed in conjunction with an application to enter  
37 the United States or any foreign nation.

38 (10) ~~Any~~A public utility, as defined in Section 216 of the Public  
39 Utilities Code, when access is needed to assist in employing  
40 persons who will be seeking entrance to private residences in the

1 course of their employment. The information provided shall be  
2 limited to the record of convictions and any arrest for which the  
3 person is released on bail or on his or her own recognizance  
4 pending trial.

5 If the local agency supplies the information pursuant to this  
6 paragraph, it shall furnish a copy of the information to the person  
7 to whom the information relates.

8 Any information obtained from the local summary criminal  
9 history is confidential and the receiving public utility shall not  
10 disclose its contents, other than for the purpose for which it was  
11 acquired. The local summary criminal history information in the  
12 possession of the public utility and all copies made from it shall  
13 be destroyed 30 days after employment is denied or granted,  
14 including any appeal periods, except for those cases where an  
15 employee or applicant is out on bail or on his or her own  
16 recognizance pending trial, in which case the state summary  
17 criminal history information and all copies shall be destroyed 30  
18 days after the case is resolved, including any appeal periods.

19 A violation of any of the provisions of this paragraph is a  
20 misdemeanor, and shall give the employee or applicant who is  
21 injured by the violation a cause of action against the public utility  
22 to recover damages proximately caused by the violation.

23 ~~Nothing in this section shall be construed as imposing~~ This  
24 ~~section does not impose~~ any duty upon public utilities to request  
25 local summary criminal history information on any current or  
26 prospective employee.

27 Seeking entrance to private residences in the course of  
28 employment ~~shall be deemed~~ is a “compelling need” as required  
29 to be shown in this subdivision.

30 (11) ~~Any~~ A city, county, city and county, or district, or ~~any~~ an  
31 officer or official thereof, if a written request is made to a local  
32 law enforcement agency and the information is needed to assist in  
33 the screening of a prospective concessionaire, and any affiliate or  
34 associate thereof, as these terms are defined in subdivision (k) of  
35 Section 432.7 of the Labor Code, for the purposes of consenting  
36 to, or approving of, the prospective concessionaire’s application  
37 for, or acquisition of, any beneficial interest in a concession, lease,  
38 or other property interest.

39 Any local government’s request for local summary criminal  
40 history information for purposes of screening a prospective

1 concessionaire and their affiliates or associates before approving  
2 or denying an application for, or acquisition of, any beneficial  
3 interest in a concession, lease, or other property interest is deemed  
4 a “compelling need” as required by this subdivision. However,  
5 only local summary criminal history information pertaining to  
6 criminal convictions may be obtained pursuant to this paragraph.

7 Any information obtained from the local summary criminal  
8 history is confidential and the receiving local government shall  
9 not disclose its contents, other than for the purpose for which it  
10 was acquired. The local summary criminal history information in  
11 the possession of the local government and all copies made from  
12 it shall be destroyed not more than 30 days after the local  
13 government’s final decision to grant or deny consent to, or approval  
14 of, the prospective concessionaire’s application for, or acquisition  
15 of, a beneficial interest in a concession, lease, or other property  
16 interest. ~~Nothing in this section shall be construed as imposing~~  
17 *This section does not impose* any duty upon a local government,  
18 or any officer or official thereof, to request local summary criminal  
19 history information on any current or prospective concessionaire  
20 or their affiliates or associates.

21 (12) A public agency described in subdivision (b) of Section  
22 15975 of the Government Code, for the purpose of oversight and  
23 enforcement policies with respect to its contracted providers.

24 (d) Whenever an authorized request for local summary criminal  
25 history information pertains to a person whose fingerprints are on  
26 file with the local agency and the local agency has no criminal  
27 history of that person, and the information is to be used for  
28 employment, licensing, or certification purposes, the fingerprint  
29 card accompanying the request for information, if any, may be  
30 stamped “no criminal record” and returned to the person or entity  
31 making the request.

32 (e) A local agency taking fingerprints of a person who is an  
33 applicant for licensing, employment, or certification may charge  
34 a fee to cover the cost of taking the fingerprints and processing  
35 the required documents.

36 (f) Whenever local summary criminal history information  
37 furnished pursuant to this section is to be used for employment,  
38 licensing, or certification purposes, the local agency shall charge  
39 the person or entity making the request a fee which it determines  
40 to be sufficient to reimburse the local agency for the cost of

1 furnishing the information, provided that no fee shall be charged  
2 to ~~any~~ a public law enforcement agency for local summary criminal  
3 history information furnished to assist it in employing, licensing,  
4 or certifying a person who is applying for employment with the  
5 agency as a peace officer or criminal investigator. ~~Any~~ A state  
6 agency required to pay a fee to the local agency for information  
7 received under this section may charge the applicant a fee sufficient  
8 to reimburse the agency for the expense.

9 (g) Whenever there is a conflict, the processing of criminal  
10 fingerprints shall take priority over the processing of applicant  
11 fingerprints.

12 (h) It is not a violation of this article to disseminate statistical  
13 or research information obtained from a record, provided that the  
14 identity of the subject of the record is not disclosed.

15 (i) It is not a violation of this article to include information  
16 obtained from a record in (1) a transcript or record of a judicial or  
17 administrative proceeding or (2) any other public record when the  
18 inclusion of the information in the public record is authorized by  
19 a court, statute, or decisional law.

20 (j) Notwithstanding any other law, a public prosecutor may, in  
21 response to a written request made pursuant to Section 6253 of  
22 the Government Code, provide information from a local summary  
23 criminal history, if release of the information would enhance public  
24 safety, the interest of justice, or the public's understanding of the  
25 justice system and the person making the request declares that the  
26 request is made for a scholarly or journalistic purpose. If a person  
27 in a declaration required by this subdivision willfully states as true  
28 any material fact that he or she knows to be false, he or she shall  
29 be subject to a civil penalty not exceeding ten thousand dollars  
30 (\$10,000). The requestor shall be informed in writing of this  
31 penalty. An action to impose a civil penalty under this subdivision  
32 may be brought by any public prosecutor and shall be enforced as  
33 a civil judgment.

34 (k) Notwithstanding any other law, the Department of Justice  
35 or any state or local law enforcement agency may require the  
36 submission of fingerprints for the purpose of conducting summary  
37 criminal history information record checks which are authorized  
38 by law.

39 (l) ~~Any~~ A local criminal justice agency may release, within five  
40 years of the arrest, information concerning an arrest or detention



1 of a peace officer or applicant for a position as a peace officer, as  
2 defined in Section 830, which did not result in conviction, and for  
3 which the person did not complete a postarrest diversion program  
4 or a deferred entry of judgment program, to a government agency  
5 employer of that peace officer or applicant.

6 (m) ~~Any~~A local criminal justice agency may release information  
7 concerning an arrest of a peace officer or applicant for a position  
8 as a peace officer, as defined in Section 830, which did not result  
9 in conviction but for which the person completed a postarrest  
10 diversion program or a deferred entry of judgment program, or  
11 information concerning a referral to and participation in any  
12 postarrest diversion program or a deferred entry of judgment  
13 program to a government agency employer of that peace officer  
14 or applicant.

15 (n) Notwithstanding subdivision (l) or (m), a local criminal  
16 justice agency shall not release information under the following  
17 circumstances:

18 (1) Information concerning an arrest for which diversion or a  
19 deferred entry of judgment program has been ordered without  
20 attempting to determine whether diversion or a deferred entry of  
21 judgment program has been successfully completed.

22 (2) Information concerning an arrest or detention followed by  
23 a dismissal or release without attempting to determine whether the  
24 individual was exonerated.

25 (3) Information concerning an arrest without a disposition  
26 without attempting to determine whether diversion has been  
27 successfully completed or the individual was exonerated.

28 *SEC. 2. If the Commission on State Mandates determines that*  
29 *this act contains costs mandated by the state, reimbursement to*  
30 *local agencies and school districts for those costs shall be made*  
31 *pursuant to Part 7 (commencing with Section 17500) of Division*  
32 *4 of Title 2 of the Government Code.*

33 ~~SECTION 1. Section 451 of the Public Utilities Code is~~  
34 ~~amended to read:~~

35 ~~451. (a) All charges demanded or received by any public~~  
36 ~~utility, or by any two or more public utilities, for any product or~~  
37 ~~commodity furnished or to be furnished or any service rendered~~  
38 ~~or to be rendered shall be just and reasonable. Every unjust or~~  
39 ~~unreasonable charge demanded or received for that product or~~  
40 ~~commodity or service is unlawful.~~

- 1     ~~(b) Every public utility shall furnish and maintain adequate,~~  
2     ~~efficient, just, and reasonable service, instrumentalities, equipment,~~  
3     ~~and facilities, including telephone facilities, as defined in Section~~  
4     ~~54.1 of the Civil Code, as are necessary to promote the safety,~~  
5     ~~health, comfort, and convenience of its patrons, employees, and~~  
6     ~~the public.~~  
7     ~~(c) All rules made by a public utility affecting or pertaining to~~  
8     ~~its charges or service to the public shall be just and reasonable.~~